

HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No.1293 OF 2006

Between:

A.Brahmaiah and others

. . .Appellants

AND

The District Collector,

Ranga Reddy District and others

. . .Respondents

:: JUDGMENT ::

Counsel for the Appellants : Ms. P.Brahmaramba Devi

Counsel for Respondent Nos.1 to 3 : Government Pleader for
Revenue

8th December, 2006

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PER G.S.SINGHVI, CJ

This appeal is directed against order dated 29.11.2006 passed by the learned Single Judge, whereby he declined to interfere with order dated 25.11.2006 passed by Mandal Revenue Officer, Kandukur Mandal, Ranga Reddy District (respondent No.3) under Section 5-A of Andhra Pradesh (Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act').

The appellants are said to have purchased land measuring 30 acres under different sale deeds dated 22.02.2006 from A.Raghunandan Raj and his General Power of Attorney Holder. Respondent Nos.4 to 29, who had entered into an agreement for purchase of portions of the same land some time in April, 1997, filed applications under Section 5-A of the Act for validation of sale/ alienation of the land in their favour. The appellants objected to the issue of validation orders in favour of respondent Nos.4 to 29. After making necessary enquiries, respondent No.3 issued proceedings dated 25.11.2006 vide which he called upon respondent Nos.4 to 29 to deposit the registration fee and stamp duty and requested the Sub-Registrar to fix up the value of the property and the amount of registration fee and stamp duty.

The appellants could have challenged the aforementioned proceedings by filing appeal under Section 5-B of the Act, but instead of adopting that course, they invoked jurisdiction of this Court under Article 226 of the Constitution of India. The learned Single Judge, after analyzing the factual matrix of the case, dismissed the writ petition by observing that the remedy of appeal available to the writ petitioners (appellants herein) is an effective alternative remedy and there is no valid ground to entertain the writ petition. Simultaneously, the learned Single Judge gave liberty to the appellants to approach Revenue Divisional Officer, East Division, Hyderabad and file appeal.

We have heard Ms. P.S.Brahmaramba Devi, learned counsel for the appellants at considerable length and perused the record. We have also examined the provisions of Section 5-A of the Act and Rules 22 and 22-A of Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989 (for short, 'the Rules').

Learned counsel for the appellants tried to convince us that the impugned proceedings do not fall within the ambit of Section 5-A of the Act, but having carefully perused the proceedings impugned in the writ petition, we are convinced that the same falls within the scheme of Section 5-A read with Rules 22 and 22-A of the Rules. The deposit of the required registration fee and stamp duty constitutes a condition precedent for issue of formal validation order. Therefore, it must be held that the proceedings issued by respondent No.3 were amenable to challenge under Section 5-B of the Act.

We are in complete agreement with the learned Single Judge that the remedy of appeal available to the appellants under Section 5-B of the Act is an effective alternative remedy because the said section forms part of the family of the provisions enacted by the Legislature to deal with the issue relating to validation of the sale transaction. We may add that the appellants have not been able to show any extraordinary reason or cause, which may justify departure from the settled law that the High Court will not issue a writ under Article 226 of the Constitution of India, if an effective alternative remedy is available to the petitioners.

For the reasons stated above, the appeal is dismissed leaving the appellants free to avail the remedy of appeal. If the appellants file an appeal within a period of two weeks from today, then the same shall be entertained, considered and disposed of by the competent authority at an early date. Liberty is also given to the appellants to file an application for interim relief.

As a sequel to dismissal of the appeal, W.A.M.P.No.2733 of 2006 filed by the appellants for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

Date: 08.12.2006

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